

RCW Sections

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**69.43.010**  
**Report to state board of pharmacy — List of substances — Modification of list —**

## Identification of purchasers — Report of transactions — Penalties.

(1) A report to the state board of pharmacy shall be submitted in accordance with this chapter by a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to any person any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;
- (c) Chlorephedrine;
- (d) Diethyl malonate;
- (e) D-lysergic acid;
- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Lead acetate;
- (l) Malonic acid;
- (m) Methylamine;
- (n) Methylformamide;
- (o) Methylephedrine;
- (p) Methylpseudoephedrine;
- (q) N-acetylanthranilic acid;
- (r) Norpseudoephedrine;
- (s) Phenylacetic acid;
- (t) Phenylpropanolamine;
- (u) Piperidine;
- (v) Pseudoephedrine; and
- (w) Pyrrolidine.

(2) The state board of pharmacy shall administer this chapter and may, by rule adopted pursuant to chapter [34.05](#) RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the board shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled

substance as defined in chapter [69.50](#) RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter [69.50](#) RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3)(a) Any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to any person, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means:

(i) A motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number;

(ii) The motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(iii) A letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business;

(iv) A description of how the substance is to be used; and

(v) The signature of the purchaser.

The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser.

(c) A violation of or a failure to comply with this subsection is a misdemeanor.

(4) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to any person shall, not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (3) of this section to the state board of pharmacy. However, the state board of pharmacy may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the state board of pharmacy determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(5) Any person specified in subsection (4) of this section who does not submit a report as required by subsection (4) of this section is guilty of a gross misdemeanor.

[2001 c 96 § 2; 1998 c 245 § 107; 1988 c 147 § 1.]

**Notes:**

**Intent -- 2001 c 96:** "Communities all over the state of Washington have experienced an increase in the illegal manufacture of methamphetamine. Illegal methamphetamine labs create a significant threat to the health and safety of the people of the state. Some of the chemicals and compounds used to make methamphetamine, and the toxic wastes the process generates, are hazards to the public health. Increases in crime, violence, and the abuse and neglect of children present at laboratory sites are also associated with the increasing number of illegal laboratory sites. The drugs ephedrine, pseudoephedrine, and phenylpropanolamine, which are used in the illegal manufacture of methamphetamine, have been identified as factors in the increase in the number of illegal methamphetamine labs. Therefore, it is the intent of the legislature to place restrictions on the sale and possession of those three drugs in order to reduce the proliferation of illegal methamphetamine laboratories and the associated threats to public health and safety." [2001 c 96 § 1.]

**Severability -- 2001 c 96:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 96 § 15.]

## **69.43.020**

### **Receipt of substance from source outside state — Report — Penalty.**

(1) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in RCW [69.43.010\(1\)](#) shall submit a report of such transaction to the state board of pharmacy under rules adopted by the board.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

[2001 c 96 § 3; 1988 c 147 § 2.]

**Notes:**

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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## **69.43.030**

### **Exemptions.**

RCW [69.43.010](#) and [69.43.020](#) do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter [69.41](#) RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the state board of pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW [69.43.010\(1\)](#), if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter [69.04](#) or [69.41](#) RCW.

[1988 c 147 § 3.]

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## **69.43.035**

### **Suspicious transactions — Report — Penalty.**

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW [69.43.010](#)(1) to any person in a suspicious transaction shall report the transaction in writing to the state board of pharmacy.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

(3) For the purposes of this section, "suspicious transaction" means a sale or transfer to which any of the following applies:

(a) The circumstances of the sale or transfer would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter [69.50](#) RCW, based on such factors as the amount involved, the method of payment, the method of delivery, and any past dealings with any participant in the transaction. The state board of pharmacy shall adopt by rule criteria for determining whether a transaction is suspicious, taking into consideration the recommendations in appendix A of the report to the United States attorney general by the suspicious orders task force under the federal comprehensive methamphetamine control act of 1996.

(b) The transaction involves payment for any substance specified in RCW [69.43.010](#)(1) in cash or money orders in a total amount of more than two hundred dollars.

(4) The board of pharmacy shall transmit to the department of revenue a copy of each report of a suspicious transaction that it receives under this section.

[2004 c 52 § 6; 2001 c 96 § 4.]

#### Notes:

**Finding -- Severability -- Effective date -- 2004 c 52:** See notes following RCW [18.64.044](#).

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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## 69.43.040 Reporting form.

(1) The department of health, in accordance with rules developed by the state board of pharmacy shall provide a common reporting form for the substances in RCW

[69.43.010](#) that contains at least the following information:

(a) Name of the substance;

(b) Quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under RCW [69.43.010](#)(4) may be computer-generated in accordance with rules adopted by the department.

[2001 c 96 § 7; 1989 1st ex.s. c 9 § 441; 1988 c 147 § 4.]

#### Notes:

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

**Effective date -- Severability -- 1989 1st ex.s. c 9:** See RCW [43.70.910](#) and [43.70.920](#).

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## 69.43.043 Recordkeeping requirements — Penalty.

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW [69.43.010](#)(1) to any person shall maintain a record of each such sale or transfer. The records must contain:

(a) The name of the substance;

(b) The quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The method of and amount of payment for the substance.

(2) The records of sales and transfers required by this section shall be available for inspection by the state board

of pharmacy and its authorized representatives and shall be maintained for two years.

(3) A violation of this section is a gross misdemeanor.

[2001 c 96 § 5.]

**Notes:**

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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### **69.43.048**

#### **Reporting and recordkeeping requirements — Submission of computer readable data, copies of federal reports.**

A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW [69.43.010](#)(1) and who is subject to the reporting or recordkeeping requirements of this chapter may satisfy the requirements by submitting to the state board of pharmacy, and its authorized representatives:

(1) Computer readable data from which all of the required information may be readily derived; or

(2) Copies of reports that are filed under federal law that contain all of the information required by the particular reporting or recordkeeping requirement of this chapter which it is submitted to satisfy.

[2001 c 96 § 6.]

**Notes:**

**Intent -- Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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### **69.43.050**

#### **Rules.**

(1) The state board of pharmacy may adopt all rules necessary to carry out this chapter.

(2) Notwithstanding subsection (1) of this section, the department of health may adopt rules necessary for the administration of this chapter.

[1989 1st ex.s. c 9 § 442; 1988 c 147 § 5.]

**Notes:**

**Effective date -- Severability -- 1989 1st ex.s. c 9:** See RCW [43.70.910](#) and [43.70.920](#).

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### **69.43.060**

#### **Theft — Missing quantity — Reporting.**

(1) The theft or loss of any substance under RCW [69.43.010](#) discovered by any person regulated by this chapter shall be reported to the state board of pharmacy within seven days after such discovery.

(2) Any difference between the quantity of any substance under RCW [69.43.010](#) received and the quantity shipped shall be reported to the state board of pharmacy within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance.

[1988 c 147 § 6.]

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### **69.43.070**

#### **Sale, transfer, or furnishing of substance for unlawful purpose — Receipt of substance with intent to use unlawfully — Class B felony.**

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in RCW [69.43.010](#) with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter [69.50](#) RCW is guilty of a class B felony under chapter [9A.20](#) RCW.

(2) Any person who receives any substance listed in RCW [69.43.010](#) with intent to use the substance unlawfully to manufacture a controlled substance under chapter [69.50](#) RCW is guilty of a class B felony under chapter [9A.20](#) RCW.

[1988 c 147 § 7.]

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## **69.43.080**

### **False statement in report or record — Class C felony.**

It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter [9A.20](#) RCW.

[1988 c 147 § 8.]

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## **69.43.090**

### **Permit to sell, transfer, furnish, or receive substance — Exemptions — Application for permit — Fee — Renewal — Penalty.**

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW [69.43.010](#) to any person or who receives from a source outside of the state any substance specified in RCW [69.43.010](#) shall obtain a permit for the conduct of that business from the state board of pharmacy. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW [69.43.010](#)(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter [69.04](#) or [69.41](#) RCW.

(2) Applications for permits shall be filed with the department in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The board may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the board, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee determined by the department.

(6) Permit fees charged by the department shall not exceed the costs incurred by the department in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW [69.43.010](#) without a required permit, is a gross misdemeanor.

[2001 c 96 § 8; 1989 1st ex.s. c 9 § 443; 1988 c 147 § 9.]

#### **Notes:**

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

**Effective date -- Severability -- 1989 1st ex.s. c 9:** See RCW [43.70.910](#) and [43.70.920](#).

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## **69.43.100**

### **Refusal, suspension, or revocation of a manufacturer's or wholesaler's permit.**

The board shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy.

[1988 c 147 § 10.]

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## **69.43.105**

### **Ephedrine, pseudoephedrine, phenylpropanolamine — Sales restrictions — Exceptions — Penalty.**

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, or an employee thereof, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese



herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, or an employee thereof, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept in a central location that is not accessible by customers without assistance of an employee of the merchant.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, or an employee thereof, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) The board of pharmacy, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(a) Ease with which the product can be converted to methamphetamine;

(b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(7) Nothing in this section applies:

(a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;

(b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(8)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner is subject to prosecution under subsection (9) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(9) A violation of this section is a gross misdemeanor.

[2005 c 388 § 2.]

#### Notes:

**Finding -- 2005 c 388:** "Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate

purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine." [2005 c 388 § 1.]

**Effective dates -- 2005 c 388:** "(1) Section 2 of this act takes effect October 1, 2005.

(2) Sections 1, 3 through 7, 9, and 10 of this act take effect January 1, 2006.

(3) Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2005]." [2005 c 388 § 11.]

**Severability -- 2005 c 388:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 388 § 10.]

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## 69.43.110

### Ephedrine, pseudoephedrine, phenylpropanolamine — Sales restrictions — Penalty.

(1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW, or an employee thereof, or a practitioner as defined in RCW [18.64.011](#), knowingly to sell, transfer, or to otherwise furnish, in a single transaction:

(a) More than two packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers; or

(b) A single package of any product that he or she knows to contain more than three grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances.

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter [18.64](#) RCW to purchase or acquire, in any twenty-four hour period, more than the quantities of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter [18.64](#) RCW, or is a practitioner as defined in RCW [18.64.011](#).

(4) A violation of this section is a gross misdemeanor.

[2005 c 388 § 4; 2004 c 52 § 5; 2001 c 96 § 9.]

#### Notes:

**Finding -- Effective dates -- Severability -- 2005 c 388:** See notes following RCW [69.43.105](#).

**Finding -- Severability -- Effective date -- 2004 c 52:** See notes following RCW [18.64.044](#).

**Intent -- Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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## 69.43.120

### Ephedrine, pseudoephedrine, phenylpropanolamine — Possession of more than fifteen grams — Penalty — Exceptions.

(1) Any person who possesses more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of those substances, is guilty of a gross misdemeanor.

(2) This section does not apply to any of the following:

(a) A pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers upon the prescription of a practitioner, as defined in RCW [69.41.010](#);

(b) A practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers to his or her patients;



(c) A pharmacy, manufacturer, or wholesaler licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter [18.64](#) RCW;

(d) A person in the course of his or her business of selling, transporting, or storing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, for a person described in (a), (b), or (c) of this subsection; or

(e) A person in possession of more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers in their home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage location and possession of products in a variety of strengths, brands, types, purposes, and expiration dates.

[2001 c 96 § 10.]

#### Notes:

**Intent -- Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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### 69.43.130

#### Exemptions — Pediatric products — Products exempted by the state board of pharmacy.

RCW [69.43.110](#) and [69.43.120](#) do not apply to:

(1) Pediatric products primarily intended for administration to children under twelve years of age, according to label instructions, either: (a) In solid dosage form whose individual dosage units do not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or (b) in liquid form whose recommended dosage, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce;

(3) Products that the state board of pharmacy, upon application of a manufacturer, exempts by rule from RCW [69.43.110](#) and [69.43.120](#) because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors; or

(4) Products, as packaged, that the board of pharmacy, upon application of a manufacturer, exempts from RCW [69.43.110](#)(1)(b) and [69.43.120](#) because:

(a) The product meets the federal definition of an ordinary over-the-counter pseudoephedrine product as defined in 21 U.S.C. 802;

(b) The product is a salt, isomer, or salts of isomers of pseudoephedrine and, as packaged, has a total weight of more than three grams but the net weight of the pseudoephedrine base is equal to or less than three grams; and

(c) The board of pharmacy determines that the value to the people of the state of having the product, as packaged, available for sale to consumers outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine.

[2004 c 52 § 7; 2001 c 96 § 11.]

#### Notes:

**Finding -- Severability -- Effective date -- 2004 c 52:** See notes following RCW [18.64.044](#).

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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### 69.43.135

#### Iodine, methylsulfonylmethane — Sales restrictions — Recording of transactions — Penalties.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.

(b) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(c) "Methylsulfonylmethane" means methylsulfonylmethane in its powder form only, and does not include products containing methylsulfonylmethane in other forms such as liquids, tablets, capsules not containing methylsulfonylmethane in pure powder form, ointments, creams, cosmetics, foods, and beverages.

(2) Any person who knowingly purchases in a thirty-day period or possesses any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane is guilty of a gross misdemeanor,

except as provided in subsection (3) of this section.

(3) Subsection (2) of this section does not apply to:

(a) A person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or advanced registered nurse practitioner;

(b) A person who possesses iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane in its powder form and is actively engaged in the practice of animal husbandry of livestock;

(c) A person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(i) Public or private secondary school;

(ii) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States department of education;

(iii) Manufacturing facility, government agency, or research facility in the course of lawful business activities;

(d) A veterinarian, physician, advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons who possesses iodine in its elemental form, an iodine matrix, or methylsulfonylmethane in its powder form in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses iodine in its elemental form or an iodine matrix in the regular course of employment at the hospital.

(4) Any person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane must present an identification card or driver's license issued by any state in the United States or jurisdiction of another country before purchasing the item.

(5) The Washington state patrol shall develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or methylsulfonylmethane. A person who sells or otherwise transfers any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane to a person for any purpose authorized in subsection (3) of this section must record each sale or transfer. The record must be made on the form developed by the Washington state patrol and must be retained by the person for at least three years. The Washington state patrol or any local law enforcement agency may request access to the records:

(a) Failure to make or retain a record required under this subsection is a misdemeanor.

(b) Failure to comply with a request for access to

records required under this subsection to the Washington state patrol or a local law enforcement agency is a misdemeanor.

[2006 c 188 § 1.]

#### Notes:

**Reviser's note:** This section was directed to be codified in chapter [9.91](#) RCW, but placement in chapter [69.43](#) RCW appears to be more appropriate.

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### 69.43.140

#### Civil penalty — State board of pharmacy waiver.

(1) In addition to the other penalties provided for in this chapter or in chapter [18.64](#) RCW, the state board of pharmacy may impose a civil penalty, not to exceed ten thousand dollars for each violation, on any licensee or registrant who has failed to comply with this chapter or the rules adopted under this chapter. In the case of a continuing violation, every day the violation continues shall be considered a separate violation.

(2) The state board of pharmacy may waive the suspension or revocation of a license or registration issued under chapter [18.64](#) RCW, or waive any civil penalty under this chapter, if the licensee or registrant establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the state board of pharmacy may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW [69.43.010](#)(1) in accordance with applicable laws.

[2001 c 96 § 12.]

#### Notes:

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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### 69.43.150

#### Application of chapter to local government.

This chapter is applicable and uniform throughout this state and in all counties, cities, code cities, and towns therein. A county, city, code city, or town may not adopt or enforce any ordinance, pertaining to this chapter, which prohibits conduct that is not prohibited under this chapter, or defining violations or penalties different from those provided under this chapter. However, this section does not preclude a county, city, code city, or town from revoking, canceling, suspending, or otherwise limiting a business or professional license it has issued for conduct that violates any provision of this chapter.

[2001 c 96 § 13.]

**Notes:**

**Intent--Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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**69.43.160**

**Ephedrine, pseudoephedrine, phenylpropanolamine — Methods to prevent sales violations — Department of health preparation of sign summarizing prohibitions.**

(1) To prevent violations of RCW [69.43.110](#), every licensee and registrant under chapter [18.64](#) RCW, who sells at retail any products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall do either or may do both of the following:

(a) Program scanners, cash registers, or other electronic devices used to record sales in a manner that will alert persons handling transactions to potential violations of RCW [69.43.110](#)(1) and/or prevent such violations; or

(b) Place one or more signs on the premises to notify customers of the prohibitions of RCW [69.43.110](#). Any such sign may, but is not required to, conform to the language and format prepared by the department of health under subsection (2) of this section.

(2) The department of health shall prepare language and format for a sign summarizing the prohibitions in RCW [69.43.110](#) and [69.43.120](#) and make the language and format available to licensees and registrants under chapter [18.64](#) RCW, for voluntary use in their places of business to inform customers and employees of the prohibitions. Nothing in this section requires the department of health to provide licensees or registrants with copies of signs, or any licensee or registrant to use the specific language or format prepared by the department under this subsection.

[2001 c 96 § 14.]

**Notes:**

**Intent -- Severability -- 2001 c 96:** See notes following RCW [69.43.010](#).

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**69.43.170**

**Ephedrine, pseudoephedrine, phenylpropanolamine — Pilot project to record retail transactions — Penalty.**

(1) The state board of pharmacy, using procedures under chapter [34.05](#) RCW, shall implement and conduct a statewide pilot project requiring the collection and maintenance of written or electronic logs or other alternative means of recording retail transactions involving ephedrine, pseudoephedrine, or phenylpropanolamine. The rules implementing the pilot project shall be in place by January 1, 2006.

(2) The pilot project shall be designed to address:

(a) Whether a log or other means of recording a transaction is an effective law enforcement tool;

(b) What information is needed to make logs or other means of recording a transaction useful as a deterrent to criminal activity;

(c) The most effective method of obtaining, recording, and storing log or other electronic data in the least intrusive manner available;

(d) How long the information recorded in the logs or other means of recording a transaction should be maintained; and

(e) How logs or other means of recording a transaction can be most effectively transmitted to law enforcement and the state board of pharmacy.

(3) The board shall convene a work group to evaluate the data collected during the pilot project. The work group shall consist of:

(a) One representative from law enforcement appointed by the Washington association of sheriffs and police chiefs;

(b) One representative from the Washington state patrol;

(c) One representative appointed by the Washington association of prosecuting attorneys;

(d) One representative appointed by the office of the attorney general;

(e) One representative appointed by the state board of pharmacy; and

(f) Two representatives from the retail industry.

(4) The state board of pharmacy shall begin data collection for the pilot project no later than January 1, 2006, and report to the legislature no later than November 1, 2007, regarding the findings of the work group along with any recommendations or proposed legislation.

(5) Any orders and rules adopted under this section not in conflict with state law continue in effect until modified, superseded, or repealed. The board may implement rule changes based upon the results of the pilot project and recommendations of the work group.

(6)(a) The records required by this section are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor, except that:

(i) Every pharmacy, shopkeeper, or itinerant vendor shall produce the records in court whenever lawfully required to do so;

(ii) The records shall be open for inspection by the board of pharmacy; and

(iii) The records shall be open for inspection by any general or limited authority Washington peace officer to enforce the provisions of this chapter.

(b) A person violating this subsection is guilty of a misdemeanor.

[2005 c 388 § 8.]

#### Notes:

**Finding -- Effective dates --  
Severability -- 2005 c 388:** See notes following RCW [69.43.105](#).

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### 69.43.180

#### Expansion of log requirements — Petition by law enforcement.

(1) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the state board of pharmacy to apply the log requirements in RCW [69.43.170](#) to one or more products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(b) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(2) The board of pharmacy shall adopt rules when a petition establishes that requiring the application of the log requirements in RCW [69.43.170](#) to the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The board of pharmacy may adopt emergency rules to apply the log requirements to the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

[2005 c 388 § 3.]

#### Notes:

**Finding -- Effective dates --  
Severability -- 2005 c 388:** See notes following RCW [69.43.105](#).

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### 69.43.190

#### Products found at methamphetamine sites — Report.

Each county sheriff shall compile and maintain a record of commercial products containing ephedrine, pseudoephedrine, or phenylpropanolamine and packaging found at methamphetamine laboratory sites. The data shall be forwarded to the Washington association of sheriffs and police chiefs and shall be reported to the legislature by November 1, 2007, and annually thereafter.

[2005 c 388 § 9.]

#### Notes:

**Finding -- Effective dates --  
Severability -- 2005 c 388:** See notes following RCW [69.43.105](#).